

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

TOPP'S MECHANICAL, INC.,

Plaintiff,

vs.

KINSALE INSURANCE COMPANY,

Defendant.

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CASE NO. 8:19-cv-20

**KINSALE INSURANCE COMPANY'S
MOTION TO DISMISS FOR FAILURE
TO STATE A VALID CAUSE OF
ACTION**

COMES NOW Defendant, Kinsale Insurance Company, pursuant to Fed. R. Civ. P. 12(b)(6), moves to dismiss the complaint filed by Plaintiff, Topp's Mechanical, Inc. (Filing No. 1-1 at ECF-1). Dismissal with prejudice is appropriate because the Kinsale policy includes a broad Absolute Pollution Exclusion that bars coverage. Topps Mechanical further does not (and cannot) allege the exception to the exclusion, which requires specific, timely, and written notice of a claim. In support of this Motion to Dismiss, Kinsale submits a supporting Brief.

WHEREFORE, Kinsale respectfully requests that this Honorable Court dismiss the Complaint filed by Topps Mechanical with prejudice.

KINSALE INSURANCE COMPANY,
Defendant,

By: /s/ JUNAID N. SAVANI

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CERTIFICATE OF SERVICE

I hereby certify that on February 14, 2019, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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